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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,034	03/23/2005	Brian D Wichner	9812-003	8989

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,034

Applicant(s)

WICHNER, BRIAN D

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 3, 5-10, 12-13, 15-18, and 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4, 11, 14, 19, and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Election/Restrictions

1. Applicant's election without traverse of Group I (claims 1-21 and 24) and Species A1, B2, C3, and D4 in the reply filed on 07/26/07 is acknowledged.
2. Claims 3, 5-6, 8-9, 12-13, 15-18, and 20-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group II and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07/26/07.

Claims 7 and 10 are also withdrawn from consideration, since those claims depend from withdrawn claims. Claim 7 depends from withdrawn claim 5 and claim 10 depends from withdrawn claim 9.

Preliminary Amendments

3. It should be noted that applicant has filed three preliminary amendments respectively on 03/23/05, 11/09/06, and 12/12/06 before the restriction requirement which was mailed on 07/26/07. However, it has been noted applicant has amended only the claims in all three preliminary amendments. The specification, abstract, and drawings have not been amended. The abstract is written in a separate sheet in provisional application No. 60/412,695 filed on 09/23/02. However, the abstract, which has been submitted with the instant application, has not been written in a separate sheet. In addition, claims 3, 7, 9-10, and 24 which has been submitted with the second preliminary amendment filled on 11/09/06 have a incorrect status identifier. The status identifier of claims 3, 7, 9-10, and 24 submitted on 11/09/06 is "Currently amended." However, the status identifier of claims 3, 7, 9-10, and

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24 submitted on 11/09/06 should have been --New-- since these claims were cancelled in the first preliminary amendment filed on 03/23/05.

Information Disclosure Statement

4. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. See pages 1-5 and 9 in the instant specification.

Drawings

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "35" in Fig. 2.

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the serrated cutting edge set forth in claims 4, 7, and 10; U-shaped cutting edge set forth in claim 5; and a linear cutting edge set forth in claim 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

7. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-21 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 10-11; “the blade support opening having dimensions to prevent human extremities from entering the blade support opening” is not accurate. It should be noted that human hairs or human fingernails could enter the blade

support opening. With respect to claim 24, similar argument also is applicable. It should be noted that the entrance height of the blade support opening is about 9-12 millimeters or greater than 12 millimeters. Therefore, the opening of the blade support is dimensioned in a manner that human extremities such as hairs and fingernails could enter the opening.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1 and 2 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Scherbring (1,146,285). Regarding claim 1, as best understood, Scherbring teaches a cutting tool including a sliding guide 9 having a length and configured for placement on a user's forearm; means 5 for removeably attaching the sliding guide 9 to the forearm; and a blade support 12 affixed to the sliding guide. Scherbring also teaches that the blade support includes a blade member 13 which has a sharp cutting edge. Scherbring also teaches that the blade support and the sliding guide together define a blade support opening having an entrance height. It should be noted that the distance between the support guide 9 and the cutting edge of the blade member 13 defines the entrance height. The entrance is dimensioned in a manner that prevents human extremities such as arm and legs from entering the blade support opening. See Figs. 1-4 in Scherbring.

Regarding claim 2, Scherbring teaches everything noted above including that the sharp cutting edge is V-shaped.

Regarding claim 11, Scherbring teaches everything noted above including that the sliding guide 9 and the blade support member constitute a single part.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 4, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scherbring. Regarding claim 4, Scherbring teaches everything noted above including that the cutting edge is smooth. Scherbring does not teach that the cutting edge is serrated. It should be noted that the cutting edge in the instant application and in the drawings is also smooth. In fact, a smooth cutting edge and a serrated cutting edge both have been claimed in the instant application. However, Official Notice is taken that the use of serrated cutting edge instead of a smooth cutting edge in cutting appliances is old and well known in the art.

Regarding claims 14 and 19, Scherbring does not explicitly teach that the length of the sliding guide is in the range of 10 to 15 centimeters and the entrance height is in the range of 6 to 9 millimeters. However, it appears that the length of the sliding guide 9 in Scherbring is in the range of 10 to 15 centimeters and the entrance height is in the range of 6 to 9 millimeters. In addition, it would have been an obvious matter of design choice to select the length of the sliding guide and the height of the entrance according to the ranges specified above, since such a modification would have involved a mere change in the size of a

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component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

14. Claims 1, 4, 11, 14, 19, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over De La Cruz (2002/0124417), hereinafter Cruz in view of Genda (1,971,814) or Stoltz (2,352,291). Regarding claim 1, as best understood, Cruz teaches a cutting tool including a sliding guide 24 having a length; and a blade support 14 affixed to the sliding guide. Cruz also teaches that the blade support includes a blade member 13 which has a sharp cutting edge. Cruz also teaches that the blade support and the sliding guide together define a blade support opening 22 having an entrance height. The entrance is dimensioned in a manner that prevents human extremities such as arm and legs from entering the blade support opening. See Figs. 1-7B in Cruz. Cruz teaches that the sliding guide is configured to be held by the finger of the user. Cruz does explicitly teach that the slide guide is configured to be placed on the forearm of a user. However, the use of cutting tool that can be placed on the forearm of the user is well known in the art such as taught Genda or Stoltz. Genda teaches a cutting tool has a sliding guide 7 placed on a firearm of the user by removeably attaching means 6. See Figs. 1-2. Stoltz also teaches a cutting tool having a sliding guide 13 placed on the forearm of a user by removeably attaching means 10. See Figs. 1-4 in Stoltz. It would have been obvious to a person of ordinary skill in the art to provide Cruz's cutting tool with attaching means, as taught by Genda or Stoltz, in order to place the cutting tool on the forearm of the user and user uses the cutting tool hands free.

Regarding claim 11, Cruz teaches everything noted above including that the sliding guide 24 and the blade support member 14 constitute a single part.

Regarding claim 4, Cruz teaches everything noted above including that the cutting edge is smooth. Cruz does not teach that the cutting edge is serrated. It should be noted that the cutting edge in the instant application and in the drawings is also smooth. In fact, a smooth cutting edge and a serrated cutting edge both have been claimed in the instant application. However, Official Notice is taken that the use of serrated cutting edge instead of a smooth cutting edge in cutting appliances is old and well known in the art.

Regarding claim 14, Cruz teaches everything noted above including that the length of the sliding guide is about 5.3 centimeters, which is within the range of 10 to 15 centimeters. See page 2, paragraph 26.

Regarding claim 19, Cruz teaches everything noted above, but Cruz does not explicitly teach that the entrance height is in the range of 6 to 9 millimeters. However, it appears that the entrance height 22 is in the range of 6 to 9 millimeters. In addition, it would have been an obvious matter of design choice to select the height of the entrance according to the ranges specified above, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 24, Cruz teaches everything noted above including that blade support having an outwardly-extending tongue 16 elevated by a vertical section, and the outwardly-extending tongue 16 and the vertical section being a single member together forming the blade support approximating a sideways L-shaped. Cruz also teaches that the blade support having an interior surface and a central plane, wherein a blade member 13 is firmly affixed along the intersection of the interior surface and the central plane of the blade

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support. Cruz also teaches that the blade member 13 is planar having a sharp cutting edge arranged and mounted interiorly within the blade support member so that the sharp cutting edge is exposed to the exterior of the support member. Cruz also teaches that the top surface of the sliding guide 24 is convex and the bottom of the sliding guide is concave. Cruz as modified by Stoltz also teaches that the top surface of the sliding guide is convex and the bottom of the sliding guide is concave. See Fig. 1 in Stoltz.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Franco (1,398,850) teaches smooth and serrated cutting edges.

Parker 92,819,521) and Gorman (5,937,626) teach V-shaped cutting edge.

Albertson (4,996,773) teach a sliding guide with concave and convex surfaces.

Florian et al. (D 254,243) and Tervola (5,070,563) teach a blade support having an opening.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information

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for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ghassem Alie
Patent Examiner
Art Unit 3724

A handwritten signature in black ink that reads "Ghassem Alie". The signature is written in a cursive style with a large, stylized 'G' and 'A'.

GA/ga /

August 9, 2007